

REFERENCE TITLE: solid waste dumping

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

## **HB 2493**

Introduced by

Representatives McGuire, McClure, Nelson, Pancrazi, Senator Miranda:  
Representatives Ableser, Alvarez, Brown, Cajero Bedford, Campbell CH,  
Gallardo, Garcia M, Kavanagh, Lopez, Lujan, Miranda B, Schapira, Sinema,  
Tom, Ulmer, Senators Rios, Soltero

AN ACT

AMENDING SECTIONS 9-499, 11-268, 13-1603 AND 49-745, ARIZONA REVISED  
STATUTES; RELATING TO SOLID WASTE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-499, Arizona Revised Statutes, is amended to  
3 read:

4 9-499. Removal of rubbish, trash, weeds, filth, debris and  
5 dilapidated structures; removal by city; costs  
6 assessed; collection; priority of assessment; grazing  
7 leases; definitions

8 A. The governing body of a city or town, by ordinance, shall compel  
9 the owner, THE lessee or THE occupant of property to remove rubbish, trash,  
10 weeds or other accumulation of filth, debris or dilapidated structures which  
11 constitute a hazard to public health and safety from buildings, grounds,  
12 lots, contiguous sidewalks, streets and alleys. An ordinance shall require:

13 1. Written notice to the owner, the owner's authorized agent or the  
14 owner's statutory agent and to the occupant or lessee. The notice shall be  
15 served either by personal service or by certified mail. If notice is served  
16 by certified mail, the notice shall be mailed to the last known address of  
17 the owner, the owner's authorized agent or the owner's statutory agent and to  
18 the address to which the tax bill for the property was last mailed. The  
19 notice shall be given not less than thirty days before the day set for  
20 compliance and shall include the legal description of the property and the  
21 cost of such removal to the city or town if the owner, occupant or lessee  
22 does not comply. The owner shall be given not less than thirty days to  
23 comply. The city or town may record the notice in the county recorder's  
24 office in the county in which the property is located. If the notice is  
25 recorded and compliance with the notice is subsequently satisfied, the city  
26 or town shall record a release of the notice.

27 2. Provisions for appeal to and a hearing by the governing body of the  
28 city or town or a board of citizens that is appointed by the governing body  
29 on both the notice and the assessments, unless the removal or abatement is  
30 ordered by a court.

31 3. That any person, firm or corporation that places any rubbish,  
32 trash, filth or debris upon any private or public property not owned or under  
33 the control of that person, firm or corporation:

34 (a) Is guilty of a class 1 misdemeanor or a civil violation and,  
35 ~~SHALL PAY A FINE OR CIVIL PENALTY OF NOT LESS THAN FIVE HUNDRED DOLLARS.~~

36 (b) In addition to ~~any~~ THE fine or penalty ~~which may be~~ THAT IS  
37 imposed for a violation ~~of any provision~~ of this section, is liable for all  
38 costs which may be assessed pursuant to this section for removing, abating or  
39 enjoining the rubbish, trash, filth or debris.

40 (c) ~~RETAINS OWNERSHIP AND RESPONSIBILITY FOR THE RUBBISH, TRASH, FILTH~~  
41 ~~OR DEBRIS UNTIL IT IS DISPOSED OF AS REQUIRED BY LAW.~~

42 B. The ordinance may provide that if any person with an interest in  
43 the property, including an owner, lienholder, lessee or occupant, after  
44 notice as required by subsection A, paragraph 1 of this section does not  
45 remove such rubbish, trash, weeds, filth, debris or dilapidated structures

1 and abate the condition which constitutes a hazard to public health and  
2 safety, the city or town may remove, abate, enjoin or cause their removal.

3 C. The governing body of the city or town may prescribe by ordinance a  
4 procedure for the removal or abatement, and for making the actual cost of the  
5 removal or abatement, including the actual costs of any additional inspection  
6 and other incidental connected costs, an assessment upon the property from  
7 which the rubbish, trash, weeds or other accumulations are removed or abated.

8 D. The ordinance may provide that the cost of removal, abatement or  
9 injunction of such rubbish, trash, weeds, filth, debris or dilapidated  
10 structures from any lot or tract of land, and associated legal costs for  
11 abatement or injunctions, shall be assessed on the property from which the  
12 rubbish, trash, weeds, accumulations or dilapidated structures are removed,  
13 abated or enjoined. The city or town may record the assessment in the county  
14 recorder's office in the county in which the property is located, including  
15 the date and amount of the assessment, the legal description of the property  
16 and the name of the city or town imposing the assessment. Any assessment  
17 recorded after July 15, 1996 is prior and superior to all other liens,  
18 obligations, mortgages or other encumbrances, except liens for general taxes.  
19 A sale of the property to satisfy an assessment obtained under ~~the provisions~~  
20 ~~of~~ this section shall be made upon judgment of foreclosure and order of sale.  
21 A city or town shall have the right to bring an action to enforce the  
22 assessment in the superior court in the county in which the property is  
23 located at any time after the recording of the assessment, but failure to  
24 enforce the assessment by such action shall not affect its validity. The  
25 recorded assessment shall be prima facie evidence of the truth of all matters  
26 recited in the assessment and of the regularity of all proceedings prior to  
27 the recording of the assessment.

28 E. Assessments that are imposed under subsection D of this section run  
29 against the property until paid and are due and payable in equal annual  
30 installments as follows:

31 1. Assessments of less than five hundred dollars shall be paid within  
32 one year after the assessment is recorded.

33 2. Assessments of five hundred dollars or more but less than one  
34 thousand dollars shall be paid within two years after the assessment is  
35 recorded.

36 3. Assessments of one thousand dollars or more but less than five  
37 thousand dollars shall be paid within three years after the assessment is  
38 recorded.

39 4. Assessments of five thousand dollars or more but less than ten  
40 thousand dollars shall be paid within six years after the assessment is  
41 recorded.

42 5. Assessments of ten thousand dollars or more shall be paid within  
43 ten years after the assessment is recorded.

44 F. An assessment that is past due accrues interest at the rate  
45 prescribed by section 44-1201.

1 G. A prior assessment for the purposes provided in this section shall  
2 not be a bar to a subsequent assessment or assessments for these purposes,  
3 and any number of assessments on the same lot or tract of land may be  
4 enforced in the same action.

5 H. IF A PERSON, FIRM OR CORPORATION IS REQUIRED TO REMOVE ANY RUBBISH,  
6 TRASH, FILTH OR DEBRIS PURSUANT TO SUBSECTION A, PARAGRAPH 3 OF THIS SECTION,  
7 THE PERSON, FIRM OR CORPORATION SHALL PROVIDE THE CITY OR TOWN WITH A RECEIPT  
8 FROM A DISPOSAL FACILITY TO INDICATE THAT THE RUBBISH, TRASH, FILTH OR DEBRIS  
9 HAS BEEN DISPOSED OF AS REQUIRED BY LAW.

10 I. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, A PERSON WHO HAS A  
11 GRAZING LEASE FOR STATE LAND IS NOT RESPONSIBLE FOR REMOVAL OF ANY RUBBISH,  
12 TRASH, FILTH OR DEBRIS THAT IS PLACED BY ANOTHER PERSON ON THE LEASED LAND IN  
13 VIOLATION OF SUBSECTION A, PARAGRAPH 3 OF THIS SECTION, IF THE OTHER PERSON  
14 IS NOT AN EMPLOYEE OR AGENT OF THE PERSON LEASING THE PROPERTY.

15 ~~H.~~ J. This section applies to all cities and towns organized and  
16 operating under the general law of this state, and cities and towns organized  
17 and operating under a special act or charter.

18 ~~I.~~ K. For THE purposes of this section:

19 1. "Property" includes buildings, grounds, lots and tracts of land.

20 2. "Structures" includes buildings, improvements and other structures  
21 that are constructed or placed on land.

22 Sec. 2. Section 11-268, Arizona Revised Statutes, is amended to read:

23 11-268. Removal of rubbish, trash, weeds, filth, debris and  
24 dilapidated buildings; violation; classification;  
25 removal by county; costs assessed; collection;  
26 priority of lien; grazing leases; definition

27 A. The board of supervisors, by ordinance, shall compel the owner,  
28 lessee or occupant of buildings, grounds or lots located in the  
29 unincorporated areas of the county to remove rubbish, trash, weeds, filth,  
30 debris or dilapidated buildings which constitute a hazard to public health  
31 and safety from buildings, grounds, lots, contiguous sidewalks, streets and  
32 alleys. Any such ordinance shall require and include:

33 1. Reasonable written notice to the owner, any lienholder, THE  
34 occupant or THE lessee. The notice shall be given not less than thirty days  
35 before the day set for compliance and shall include the estimated cost to the  
36 county for the removal if the owner, occupant or lessee does not comply. The  
37 notice shall be either personally served or mailed by certified mail to the  
38 owner, occupant or lessee at his last known address, or the address to which  
39 the tax bill for the property was last mailed. If the owner does not reside  
40 on the property, a duplicate notice shall also be sent to the owner at the  
41 owner's last known address.

42 2. Provisions for appeal to the board of supervisors on both the  
43 notice and the assessments.

44 3. That any person, firm or corporation that places any rubbish,  
45 trash, filth or debris upon any private or public property located in the

1 unincorporated areas of the county not owned or under the control of the  
2 person, firm or corporation:

3 (a) Is guilty of a class 1 misdemeanor and, ~~SHALL PAY A FINE OF NOT~~  
4 ~~LESS THAN FIVE HUNDRED DOLLARS.~~

5 (b) In addition to ~~any~~ THE fine ~~which may be~~ THAT IS imposed for a  
6 violation of ~~any provision of~~ this section, is liable for all costs which may  
7 be assessed pursuant to this section for the removal of the rubbish, trash,  
8 filth or debris.

9 (c) ~~RETAINS OWNERSHIP AND RESPONSIBILITY FOR THE RUBBISH, TRASH, FILTH~~  
10 ~~OR DEBRIS UNTIL IT IS DISPOSED OF AS REQUIRED BY LAW.~~

11 B. The ordinance may provide that if any person with an interest in  
12 the property, including an owner, lienholder, lessee or occupant of the  
13 buildings, grounds or lots, after notice as required by subsection A,  
14 paragraph 1, does not remove the rubbish, trash, weeds, filth, debris or  
15 dilapidated buildings and abate the condition which constitutes a hazard to  
16 public health and safety, the county may, at the expense of the owner, lessee  
17 or occupant, remove, abate, enjoin or cause the removal of the rubbish,  
18 trash, weeds, filth, debris or dilapidated buildings.

19 C. The board of supervisors may prescribe by the ordinance a procedure  
20 for such removal or abatement and for making the actual cost of such removal  
21 or abatement, including the actual costs of any additional inspection and  
22 other incidental costs in connection with the removal or abatement, an  
23 assessment upon the lots and tracts of land from which the rubbish, trash,  
24 weeds, filth, debris or dilapidated buildings are removed.

25 D. The ordinance may provide that the cost of removal, abatement or  
26 injunction of the rubbish, trash, weeds, filth, debris or dilapidated  
27 buildings from any lot or tract of land located in the unincorporated areas  
28 of the county and associated legal costs be assessed in the manner and form  
29 prescribed by ordinance of the county upon the property from which the  
30 rubbish, trash, weeds, filth, debris or dilapidated buildings are removed,  
31 abated or enjoined. The county shall record the assessment in the county  
32 recorder's office in the county in which the property is located, including  
33 the date and amount of the assessment and the legal description of the  
34 property. Any assessment recorded after ~~the effective date of this amendment~~  
35 ~~to this section~~ AUGUST 6, 1999 is prior and superior to all other liens,  
36 obligations or other encumbrances, except liens for general taxes and prior  
37 recorded mortgages. A sale of the property to satisfy an assessment obtained  
38 under this section shall be made on judgment of foreclosure and order of  
39 sale. The county may bring an action to enforce the lien in the superior  
40 court in the county in which the property is located at any time after the  
41 recording of the assessment, but failure to enforce the lien by such action  
42 does not affect its validity. The recorded assessment is prima facie  
43 evidence of the truth of all matters recited in the assessment and of the  
44 regularity of all proceedings before the recording of the assessment.

1 E. Assessments that are imposed under subsection D run against the  
2 property until they are paid and are due and payable in equal annual  
3 installments as follows:

4 1. Assessments of less than five hundred dollars shall be paid within  
5 one year after the assessment is recorded.

6 2. Assessments of five hundred dollars or more but less than one  
7 thousand dollars shall be paid within two years after the assessment is  
8 recorded.

9 3. Assessments of one thousand dollars or more but less than five  
10 thousand dollars shall be paid within three years after the assessment is  
11 recorded.

12 4. Assessments of five thousand dollars or more but less than ten  
13 thousand dollars shall be paid within six years after the assessment is  
14 recorded.

15 5. Assessments of ten thousand dollars or more shall be paid within  
16 ten years after the assessment is recorded.

17 F. A prior assessment for the purposes provided in this section is not  
18 a bar to a subsequent assessment or assessments for such purposes, and any  
19 number of liens on the same lot or tract of land may be enforced in the same  
20 action.

21 G. Before the removal of a dilapidated building the board of  
22 supervisors shall consult with the state historic preservation officer to  
23 determine if the building is of historical value.

24 H. If a county removes a dilapidated building pursuant to this  
25 section, the county assessor shall adjust the valuation of the property on  
26 the property assessment tax rolls from the date of removal.

27 I. IF A PERSON, FIRM OR CORPORATION IS REQUIRED TO REMOVE ANY RUBBISH,  
28 TRASH, FILTH OR DEBRIS PURSUANT TO SUBSECTION A, PARAGRAPH 3, THE PERSON,  
29 FIRM OR CORPORATION SHALL PROVIDE THE COUNTY WITH A RECEIPT FROM A DISPOSAL  
30 FACILITY TO INDICATE THAT THE RUBBISH, TRASH, FILTH OR DEBRIS HAS BEEN  
31 DISPOSED OF AS REQUIRED BY LAW.

32 J. NOTWITHSTANDING SUBSECTION A, A PERSON WHO HAS A GRAZING LEASE FOR  
33 STATE LAND IS NOT RESPONSIBLE FOR REMOVAL OF ANY RUBBISH, TRASH, FILTH OR  
34 DEBRIS THAT IS PLACED BY ANOTHER PERSON ON THE LEASED LAND IN VIOLATION OF  
35 SUBSECTION A, PARAGRAPH 3, IF THE OTHER PERSON IS NOT AN EMPLOYEE OR AGENT OF  
36 THE PERSON LEASING THE PROPERTY.

37 ~~I.~~ K. ~~As-used-in~~ FOR THE PURPOSES OF this section, occupant does not  
38 include any corporation or association operating or maintaining rights-of-way  
39 for and on behalf of the United States government, either under contract or  
40 under federal law.

41 ~~J.~~ L. ~~As-used-in~~ FOR THE PURPOSES OF this section, "dilapidated  
42 building" means any real property structure that is in such disrepair or is  
43 damaged to the extent that its strength or stability is substantially less  
44 than a new building or it is likely to burn or collapse and its condition  
45 endangers the life, health, safety or property of the public.

1           Sec. 3. Section 13-1603, Arizona Revised Statutes, is amended to read:  
2           13-1603. Criminal littering or polluting; classification

3           A. A person commits criminal littering or polluting if such person  
4 without lawful authority does any of the following:

5           1. Throws, places, drops or permits to be dropped on public property  
6 or property of another ~~which~~ THAT is not a lawful dump any litter, ~~OR~~  
7 destructive or injurious material ~~which he~~ THAT THE PERSON does not  
8 immediately remove.

9           2. Discharges or permits to be discharged any sewage, oil products or  
10 other harmful substances into any waters or onto any shorelines within the  
11 state.

12           3. Dumps any earth, soil, stones, ores or minerals on any land.

13           B. Criminal littering or polluting is ~~punished~~ PUNISHABLE as follows:

14           1. A class 6 felony if THE ACT IS a knowing violation of subsection A  
15 in which the amount of litter or other prohibited material or substance  
16 exceeds three hundred pounds in weight or one hundred cubic feet in volume or  
17 is done in any quantity for a commercial purpose. IF THE ACT IS PUNISHABLE  
18 UNDER THIS PARAGRAPH, THE PERSON SHALL PAY A FINE OF NOT LESS THAN ONE  
19 THOUSAND DOLLARS.

20           2. A class 1 misdemeanor if the act is not punishable under paragraph  
21 1 of this subsection and involves placing any destructive or injurious  
22 material on or within fifty feet of a highway, beach or shoreline of any body  
23 of water used by the public.

24           3. A class 2 misdemeanor if THE ACT IS not punishable under paragraph  
25 1 or 2 of this subsection.

26           Sec. 4. Section 49-745, Arizona Revised Statutes, is amended to read:  
27           49-745. Ownership of solid waste

28           A. Solid waste offered or set out for collection, transportation,  
29 storage, disposal or recovery becomes, on acceptance by a management agency  
30 or solid waste facility, the sole property of the accepting management agency  
31 or solid waste facility.

32           B. ANY PERSON WHO PLACES SOLID WASTE ON ANY PRIVATE OR PUBLIC PROPERTY  
33 THAT IS NOT OWNED OR UNDER THE CONTROL OF THAT PERSON RETAINS OWNERSHIP AND  
34 RESPONSIBILITY FOR THE SOLID WASTE UNTIL THE SOLID WASTE IS DISPOSED OF AS  
35 REQUIRED BY LAW.